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Mr Justin Wickes
Director
Investigations 2
Anti-Dumping Commission
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Public File

Dear Mr Wickes

Investigation No. 473 – Ammonium nitrate exported from P R China, Sweden and Thailand – EPR Submission 027 Downer EDI Mining-Blasting Services

I. Introduction

I refer to the submission on behalf of Downer ED Mining-Blasting Services (DBS) of 4 December 2018 that seeks to challenge the Anti-Dumping Commission's ("the Commission") injury analysis in Investigation No. 473. Specifically, DBS disputes the injury assessments as detailed in Preliminary Affirmative Determination No. 473 ("PAD 473").

II. Market

The DBS submission contends that the Commission's injury analysis in PAD 473 is incorrect as the downstream customers of the blasting services companies is not a suitable injury analysis position for ammonium nitrate ("AN") supply. DBS submits that the most appropriate for the injury analysis is at which the AN is sold directly to "end-users of AN".

Orica Australia Pty Ltd ("Orica") does not agree with DBS' theory. The Australian industry manufacturing AN experiences injury from dumped exports of AN at the end-user and the blasting services provider – as both customers purchase AN from the Australian industry. The injury analysis of the Australian industry must encompass all of the industry's customers – whether these are intermediate blasting services customers who purchase AN and supply to mining companies a "whole of service" raw material and blasting service contract or, a principal mining house that sources AN separately to a blasting service provider. The blasting services company and the mine principal are customers of the Australian industry producing AN and can be used to evidence injury to the Australian industry producing AN.

III. Injury analysis

DBS contends that the Commission's approach to injury analysis is "misguided". It argues that the contracts that were examined over the injury period were already in place prior to the investigation period. That is a correct observation as it is the import prices during the investigation period that materially impacted prices that were re-negotiated for future supply (along with the current spot supplies).

The contract prices that existed prior to the investigation period were not impacted by dumping and, as such, represent an appropriate benchmark against which to contrast the dumped prices from China, Sweden and Thailand.

The argument that “no Australian industry member found it necessary to reduce its prices to ‘mining services providers’, such as DBS, due to allegedly dumped imports” is not supported by the evidence as tabled to the Commission in the Industry application. It is Orica’s experience that the dumped export prices have been used by customers (both blasting service providers and end-use customers) to secure price reductions for AN.

The DBS submission back-tracks to again argue that the Commission has incorrectly considered injury at end-use customers in its analysis. As indicated, injury is observable at both the blasting services customer base and at the end-user (as the Australian industry sells at both levels on the Australian market).

DBS further argues that there is “no impact of dumped imports on awards of blasting services contracts”. The AN accounts for a substantial proportion of a complete blasting services contract, hence, any savings achieved by the blasting services provider through the purchase of dumped AN may not be reflected in the service contract to the mining principal – [dumped prices support the AN services provider]. However, this is not the evidence that the Industry has experienced with dumped AN significantly impacting pricing to mining principals and blasting service providers.

DBS submits that “imports have not caused material injury to the members of the Australian industry”. It may be that the injury that has been caused by DBS through its purchase of dumped imports is not ‘material’ in nature when considered in the context of the total Australian industry; however, when the injury attributed to the dumped exports from China, Sweden and Thailand is taken in aggregate across all of the blasting service providers and end-use customers, it is, as detailed in PAD 473, material in nature.

IV. Closing remarks

The DBS submission argues that the Commission’s injury analysis in PAD 473 is incorrect and should not consider injury at downstream customers of AN. This assertion is incorrect. Injury from the dumped exports of AN to Australia can be evidenced at both the blasting services customer level and the end-use customer level (particularly where the latter purchases AN separately from a blasting services contract).

The Commission has not taken a narrow interpretation of injury in PAD 473 and has examined information from Orica across all of its customer base.

The DBS claims in its 4 December 2018 submission are not supported by the available evidence concerning the impact of the dumped exports on all contracts (at blasting services and end-customer levels) in the Australian market.

If you have any questions concerning the attached response, please do not hesitate to contact me on (03) 9665 7309 or Orica’s representative Mr John O’Connor on (07) 3342 1921.

Yours faithfully



Malcolm Hart
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